

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR INITIATION OF RULEMAKING**

AGENDA #III.A.5

AGENDA ITEM SUMMARY: The proposed amendment and repeal of existing air quality visibility rules and the proposed adoption of new rules (Proposed Visibility Rules) fulfill federal requirements for establishing visibility protection for Class I areas. The proposed rules provide a means of certifying and remedying visibility impairment that may be reasonably attributable to stationary sources of emissions. The Department intends to submit into the SIP any rules adopted by the Board in this proceeding.

LIST OF AFFECTED RULES:

ARM 17.8.1101	Definitions (amend)
ARM 17.8.1102	Incorporations by Reference (amend);
ARM 17.8.1103	Applicability – Visibility Requirements (amend);
ARM 17.8.1107	Visibility Models (amend);
ARM 17.8.221	Ambient Air Quality Standard for Visibility (repeal);
NEW RULE I	Existing Impairment (adopt);
NEW RULE II	Exemption from Best Available Retrofit Control Technology (BART) (adopt);
NEW RULE III	BART Analysis (adopt).

AFFECTED PARTIES SUMMARY: The Proposed Visibility Rules target emissions from existing major stationary sources that may reasonably be anticipated to cause or contribute to any impairment of visibility.

SCOPE OF PROPOSED PROCEEDING: The Department of Environmental Quality (Department) seeks authorization to initiate rulemaking on the Proposed Visibility Rules, schedule a public hearing, take public comment, and advocate the actions as set forth in the accompanying draft MAR notice.

BACKGROUND: The federal Clean Air Act requires all states with mandatory Class I federal areas to adopt visibility protection programs that meet the requirements of federal regulations. The Board of Environmental Review (Board) has previously adopted ARM 17.8.1101 through 1111, which provide requirements concerning visibility protection for mandatory Class I federal areas applicable to new major stationary sources and major modifications.

On November 24, 1987, EPA issued a determination that Montana's State Implementation Plan (SIP) was deficient. The SIP failed to provide for the remedy of visibility impairment that could be reasonably attributed to existing major sources. As a result of expanded requirements for regional haze visibility protection, the Department is proposing to address the deficiencies of the reasonably attributable portion of the visibility rules through state rulemaking.

HEARING INFORMATION: No hearing date is currently scheduled.

BOARD OPTIONS: The Board may:

- 1) authorize the Department to initiate rulemaking and publish the attached Notice of Public Hearing on Proposed Amendment, Adoption and Repeal;
- 2) modify the Notice and initiate rulemaking thereafter;
- 3) refuse to consider the Proposed Visibility Rules and deny the Department's request to initiate rulemaking.

DEPARTMENT RECOMMENDATION:. The Department seeks to maintain its authority under the SIP and recommends the Board initiate rulemaking to amend/repeal existing rules and adopt proposed new rules as set forth in the attached draft MAR Notice. The Department also recommends the Board take comment regarding the inclusion of the Proposed Visibility Rules into the SIP.

